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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,565

10/17/2003

Leonid Shendelman

SHENDELMAN

2399

156

7590

10/11/2006

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NEW YORK, NY 10017

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/688,565

Applicant(s)

SHENDELMAN, LEONID

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 33-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 recites the limitation "the at least one holder" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 35, however, supports this limitation.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33, 35, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ercolani in view of Wightman et al. (Wightman).

Ercolani discloses a one hand controllable plate and cup holder capable of functioning as a serving platter, the plate has a food depression and a container depression, a strap 62 is mounted to the bottom of the plate. Ercolani discloses the invention except for the plate having a pair of mounting holes to mount the strap. Wightman teaches a moistening device for postal and bank clerks comprising a sponge mounted within a depression of cup 11 to a strip 12 which is mounted to a user's palm with a strap 14, the strip has holes for mounting the strap. It would have been obvious to modify Ercolani's plate to include a pair of mounting holes extending through the plate

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and to modify the strap to be mounted to the mounting holes as such a detachable strap allows replacement of a defective strap rather than replacement of the entire plate if the strap should break.

Re claims 38 and 39, Official notice is taken that detachable straps of non-stretchable material and flat cross section are well known in the art of straps. It would have been obvious to modify the strap to be non-stretchable where a fixed size is desired. It would have been obvious to modify the strap to be flat where ribs are not desired since ribs could leave an indentation or mark on the user's hand.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ercolani in view of Wightman as applied to claim 33 above, and further in view of Gibbar.

The combination discloses the invention except for the set of staggered projections to bind a channel. Gibbar teaches a serving platter with a cup holder as shown in Fig. 4 and 5, the holder incorporates upward projections in a staggered arrangement bounding a channel in which a utensil (cup) is clamped. It would have been obvious to modify the cup holder of Ercolani to be the clamping type holder of Gibbar to more securely retain the cup to prevent spills.

Claims 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ercolani in view of Wightman as applied to claim 33 above and further in view of Laird.

The combination discloses the invention except for the adjustable mounting having serrated ends. Laird teaches a serrated end. It would have been obvious as a matter of design choice to substitute two serrated ends, one for each end for an adjustable

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attachment as the serrated design offers adjustability as taught by Laird to adjust to the size of a body part.

Applicant's arguments with respect to claims 33-40 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on IFP.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc